

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:04-CR-299

v.

HON. ROBERT HOLMES BELL

EUGENE ATKINS,

Defendant.

MEMORANDUM OPINION AND ORDER

Defendant Eugene Atkins has filed a motion for modification or reduction of sentence (ECF No. 150) pursuant to 18 U.S.C. § 3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

However, because the defendant's base offense level at sentencing was driven by USSG 2D1.1(a)(1) and not the Drug Quantity Table set forth in Subsection c, the Probation Office has now found Defendant ineligible for a reduction in sentence under Guideline Amendment 782. No objections have been filed to the report of eligibility in the time frame prescribed.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (ECF No. 150) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

Dated: April 14, 2015

/s/ Robert Holmes Bell

ROBERT HOLMES BELL

UNITED STATES DISTRICT JUDGE